

Appl. No.: 09/963,844

APP 1304

Amdt. Dated: March 29, 2007

Reply to Final Rejection of: September 29, 2006

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REMARKS/ARGUMENTS

The Examiner has rejected claims 1-20 under 35 U.S.C. Sec. 102(e) as being anticipated by United States Patent 6,708,036 by (Proctor et al. (the "036"). The Examiner considered Applicants previously submitted arguments regarding the validity of this prior art reference but the Examiner asserted that the arguments were not persuasive. The Examiner concluded that the present application is not entitled to benefit of the earlier filing date because pursuant to 35 USC Sec. 120, the present application does not reference the '036 patent in the first sentence of the specification. Applicants respectfully request the Examiner reconsider his opinion.

The '036 patent has a common assignee of the present application and one inventor in common, Mr. Paul Zablocky. The opening sentence in the specification of the present application makes specific reference to --The application of Paul Proctor and Paul Zablocky, entitled "Methods and Systems for Adjusting Sectors Across Coverage Cells --". It is from this referenced application that the '036 patent issued. Applicants therefore respectfully assert that they have met the requirements of 35 USC Section 120 because the application that resulted in the issued '036 patent was referenced and therefore the '036 patent is not prior art under 35 USC Sec. 102(e).

However, to more clearly identify that the referenced patent application in the opening sentence of the present application is the "036 patent, Applicants have amended the specification to included the serial number and patent number of the '036 reference.

Accordingly, applicants respectfully suggest that the '036 reference was improperly cited as prior art and therefore the arguments presented by the Examiner as to why the present application does not meet the requirements of 35 USC Sec 102(e) are not valid. Applicants submit that the present claims are therefore allowable. Favorable reconsideration and allowance of these claims are therefore requested.

Applicants earnestly believe that this application is now in condition to be passed to issue, and such action is also respectfully requested. However, if the Examiner deems it would in any way facilitate the prosecution of this application, he is invited to telephone applicants' agent at the number given below.

A petition for a three-month extension of time is enclosed herewith.

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Respectfully submitted,
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Attachments:
Petition for three-month extension of time